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AMENDMENTS TO THE DRAWINGS

Figure 1 of the drawings has been amended, as set forth in the attached Replacement Sheet, to label one side of the spike 7 as ---7a--- to be consistent with the specification. No new matter is believed to be contained in the drawing amendment.

Attachment: Replacement Sheet of Drawings (1)

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REMARKS/ARGUMENTS

Initially, Applicants would like to express their appreciation to the Examiner for the detailed Official Action provided, for acknowledgement of Applicants' Information Disclosure Statement by return of the Form PTO-1449, and for acknowledgement of Applicants' Claim of Priority and receipt of the certified copy of the priority document in the Official Action.

Upon entry of the above amendment, claims 1 and 2 will have been amended and new dependent claim 3 will have been added. Claims 1-3 are currently pending. In view of the herein contained amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections together with an indication of the allowability of all of the claims in the present application, in due course.

In the Official Action, the Examiner objected to the drawings under 37 C.F.R. § 1.83(a) because they fail to show Figure 7(a) as described in the specification. However, since the application does not contain Figure 7(a), presumably the Examiner intended to object to reference numeral 7a. It appears that both sides of the spike 7 were numbered 7b, and 7a does not appear in the drawings. Accordingly, the left side of the spike numbered 7b has been renumbered 7a in the replacement sheet of drawings accompanying the present amendment. Therefore, the objection to the drawings is now believed to be moot and should be withdrawn.

In the Official Action, the Examiner objected to the Specification for attempting to incorporate essential material in the specification by reference to an unpublished foreign application or patent. Accordingly, the incorporation by reference to the unpublished

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foreign application has been deleted from the specification. The Examiner also objected to the use of reference characters "1(1A)"; the vertebra body plate 1A "having a symmetrical shape" with the vertebra body plate; and the corner portion C' "of the vertebra body...protruding to a side of the pedicle of arch. Accordingly, Applicants have amended the specification as suggested by the Examiner on pages 3 and 4 of the Official Action. Therefore, the objection to the Specification is believed to be moot and should be withdrawn.

In the Official Action, the Examiner rejected claims 1 and 2 under 35 U.S.C. § 103(a) as being unpatentable over SCHARF (U.S. Patent No. 6,682,563).

Although Applicants do not necessarily agree with the Examiner's rejection of the claims on these grounds, nevertheless, Applicants have amended independent claim 1 to clearly obviate the above-noted grounds of rejection in order to expedite prosecution of the present application. In this regard, Applicants note that SCHARF fails to teach or suggest the combination of elements recited in amended claim 1. In particular, claim 1, as amended, sets forth a rhombic vertebra body plate including, inter alia, a main body portion having a generally point symmetric shape around a point in which a first diagonal line connecting a pair of acute angle portions having acute angles opposing to each other, crosses a second diagonal line connecting a pair of obtuse angle portions having obtuse angles opposing to each other... at least one spike provided on each of the first diagonal line and the second diagonal line of the main body portion and extending therefrom.

Applicants submit that SCHARF, alone or in any proper combination, lacks any disclosure of the *at least one spike provided on each of the first diagonal line and the second diagonal line of the main body portion and extending therefrom.*

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The Examiner cites to SCHARF, Figures 3 and 5, as purportedly disclosing a rhombic plate main body portion having a generally point symmetric shape around a point in which a first diagonal line connecting a pair of acute angle portions having acute angles opposing to each other, crosses a second diagonal line connecting a pair of obtuse angle portions having obtuse angles opposing to each other. However, the beveled ridge members (25), which the Examiner has characterized as being at least one spike is actually provided on the spacer (20). The spacer (20) has a generally square shape (see Fig. 1) and therefore does not have a main body portion including a generally point symmetric shape around a point in which a first diagonal line connecting a pair of acute angle portions having acute angles opposing to each other, crosses a second diagonal line connecting a pair of obtuse angle portions having obtuse angles opposing to each other. Further, the SCHARF device is intended to be inserted between and connect two "vertebrae" (plural), whereas the "vertebra" (singular) body plate of a feature of an embodiment of the present invention is capable of being fixed to individual vertebra (see Specification, page 7, lines 15-17).

Thus, SCHARF lacks any teaching of the combination of element as recited in claim 1, including, a main body portion *including a generally point symmetric shape around a point in which a first diagonal line connecting a pair of acute angle portions having acute angles opposing to each other, crosses a second diagonal line connecting a pair of obtuse angle portions having obtuse angles opposing to each other and at least one spike provided on each of the first diagonal line and the second diagonal line of the main body portion and extending therefrom.*

Applicants further submit that another aspect of a feature of an embodiment of the

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present invention as recited in claim 1, sets forth a rhombic vertebra body plate including, inter alia, at least one spike provided on each of the first diagonal line and the second diagonal line of the main body portion. The Examiner acknowledges that SCHARF does not disclose the aforementioned feature. However, the Examiner takes the position that the location of the spikes is an obvious matter of design choice. Contrary to the Examiner's assertion, the combination of elements as recited in amended claim 1, including the location of the spikes, permits, among other things, more secure fixation of the vertebra body plate to the vertebral body (see Specification, page 7, lines 10-14). Thus, the location of the spikes are more than an obvious matter of choice in design.

A further aspect of an embodiment of the present invention, as recited in new claim 3, sets forth a rhombic vertebra body plate including, inter alia, the spike having a V-shaped cross section perpendicular to the direction of penetration of the spike.

Applicants further submit that SCHARF lacks any disclosure of the spike having a V-shaped cross section perpendicular to the direction of penetration of the spike. A cross-section of the beveled ridge members (25) taken perpendicular to the beveled ridge members direction of penetration (axis 99 in Fig. 3 shows the direction of penetration) would be generally rectangular in shape, with the generally rectangular shape of the cross-section increasing towards the base of the ridge members (Fig. 1). Thus, SCHARF lacks any teaching of the combination of elements as recited in claim 3, including, *the spike having a V-shaped cross section perpendicular to the direction of penetration of the spike*. Accordingly, the rejection of claims 1 and 2 under 35 U.S.C. § 103(a) is improper for all the above reasons and withdrawal thereof is respectfully requested.

In view of the amendments and arguments herein, Applicants submit that

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independent claim 1 is in condition for allowance. With regard to dependent claims 2 and 3, Applicants assert that claims 2 and 3 are allowable on their own merit, as well as because they depend from independent claim 1, which Applicants have shown to be allowable.

Thus, it is respectfully submitted that all of the claims in the present application are clearly patentable over the references cited by the Examiner, either alone or in combination, and an indication to such effect is respectfully requested, in due course.

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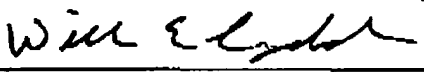
SUMMARY

Applicants submit that the present application is in condition for allowance, and respectfully request an indication to that effect. Applicants have argued the allowability of the claims and pointed out deficiencies of the applied reference. Accordingly, reconsideration of the outstanding Official Action and allowance of the present application and all the claims therein are respectfully requested and is now believed to be appropriate.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
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Attachments: Replacement Sheet of Drawings (1)